

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**SUMMONS FOR JUDGMENT NO.34 OF 2015
IN
SUMMARY SUIT NO.3733 OF 2001**

Mumbai Municipal Corporation

.. Plaintiffs

Vs.

Kathiawar Textile Mills

.. Defendants

Mr.Satish Upadhayay i/by M/s.M.V.Kini & Co.for the plaintiffs.
None for the defendants.

CORAM : K.R.SHRIRAM, J.

DATE : 11th August, 2015

P.C.

1 The plaintiffs have filed this suit under Order 37 of the Code of Civil Procedure for a liquidated sum of Rs.2,48,00,126.88 under a written agreement between the plaintiffs and the defendants being the requisition made by the defendants on the basis of which electricity was supplied to the defendants on the terms and conditions as mentioned in the conditions of supply and use of tariff of the undertaking. The alternative case of the plaintiffs is that the amounts as claimed are due and payable under an Enactment and the said conditions of supply along with schedule of tariffs with an undertaking has statutory force and have been framed

and enacted under the provisions of the Indian Electricity Supply Act 1910.

2 The counsel for the plaintiffs states that they have served Summons for Judgment together with affidavit in support upon the defendants on 15.6.2015. The counsel undertakes to file an affidavit of service within one week from today. The counsel also states that they have not been served any reply by the defendants. I also do not find any reply or leave to defend in the record. In fact, when the matter was listed on 15.6.2015, it is recorded that the plaintiffs just handed over in the court, copy of the Summons for Judgment to the Advocate appearing for the defendants. The defendants were directed to file their affidavit in reply and serve a copy on the plaintiffs on or before 26.6.2015 and rejoinder if any, was to be filed and copy served on or before 4.7.2015.

3 In the circumstances, the defendants not having filed any affidavit in reply or application for leave to defend, the plaintiffs are entitled to a judgment forthwith as provided under Order 37 Rule 3 sub-rule 6(1) of Code of Civil Procedure.

4 Accordingly, suit decreed in terms of prayer clause-(a) which reads as under :-

“this Hon'ble Court be pleased to order and decree the defendants to pay to the plaintiffs a sum of Rs.2,48,00,126.88 as per the particulars of claim at Exhibit-Q hereto along with further interest thereon at the rate of 24% per annum till payment or realization thereof.”

The plaintiffs will be however, entitled to interest at the rate of 12% p.a. and cost to the tune of Rs.50,000/-.

(K.R. SHRIRAM, J.)